US Army Corps of Engineers

Sacramento District
1325 J Street
Sacramento, CA 95814-2922

Public Notice

Public Notice Number: 200200728
Date: September 30, 2003
Comments Due: October 30, 2003

In reply, please refer to the Public Notice Number

TO WHOM IT MAY CONCERN:

SUBJECT: Application for a Department of the Army permit under authority of Section 404 of the Clean Water Act, to construct two residential development subdivisions, that involves the discharge of dredged or fill material into waters of the United States, including wetlands (waters), as shown in the attached drawings.

APPLICANT: Craig Nagler, Dunmore Homes, 2150 Professional Drive, Suite 150 Roseville, California 95661-3782

LOCATION: The proposed Wildhawk North Property project is located west of Bradshaw Road, east of Vineyard Road, and immediately south of Gerber Road, in Section 9, Township 7 North, Range 6 East, MBD&M, Sacramento County, California. Latitude 038-28-45.8820, Longitude 121-19-17.5463 (Figures 1 & A)

PROJECT DESCRIPTION: The applicant's proposed project would result in permanent impacts to 4.19 acres of waters and 4.89 acres of indirect impacts. The waters are comprised of 0.09 acre of ponds, 0.12 acre of seasonal wetland, 3.30 acres of vernal pools, and 0.68 acre of wetland swale (Figure B). This proposal includes 0.97 acres of vernal pools located off-site that will be permanently impacted from the on-site construction. Temporary impacts to 4.89 acres of Gerber Creek and associated wetlands are also proposed.

Project features include a subdivision, Wildhawk Northeast, consisting of 453 single family home lots, totaling approximately 112.4 acres, an open space area, totaling approximately 5.7 acres, and a park, totaling approximately 2.8 acres. The project also includes another subdivision, Wildhawk Northwest, consisting of 386 residential lots, totaling approximately 70.6 acres, two open space lots, totaling approximately 4.3 acres, the deepening and widening of Gerber Creek, and an extension of the existing residential road (Figure B) entering from the southeast is proposed to be constructed across the northern boundary of an approximately 20.6 acre parcel, located at the southern extent of the project site. The applicant has stated that additional residential lots will also be created on this parcel and the exact configuration of the lots will be determined at a later date.

Gerber Creek and Associated Wetlands Gerber Creek enters the northeast corner of the project area at Vineyard Road. It flows to the west/southwest, then bends to the north and flows off-site

under Gerber Road. The Creek is proposed to be deepened and widened to convey 100-year storm water run-off through the project area. The improved drainage channel will be contained within an approximately 150 foot open space corridor. The proposed channel will be approximately 10 feet deep with 3:1 side slopes, a 12 foot bottom width, and a meandering low flow channel. The drainage channel will be situated approximately 27 feet from the northern boundary of the open space corridor (Figure B), leaving approximately 51 feet as open space on the south side of the channel. This area is proposed to accommodate a pedestrian and bicycle trail.

The existing Gerber Creek has been historically altered by livestock grazing and irrigation practices. Sections of the creek retain a defined bed and bank mosaic, while other sections resemble a wet swale. Associated seasonal wetland habitats within Gerber Creek are characterized by Mediterranean barley, Bermuda grass, creeping spikerush, annual rabbit-foot grass, common tarweed, swamp timothy, tall flatsedge, mannagrass, postrate knotweed, perennial rye, bearded sprangle-top, and dallis grass.

Vernal Pools The vernal pools on the project site range from 208 square feet to 17,229 square feet in area (Figure B). A majority of the vernal pools are situated south of Gerber Creek in the southeast corner of the project area. Some of the vernal pools occur in isolated basins while others occur in depressions associated with linear swales or drainage features. They all sustain long-term ponding and/or saturated soil conditions that persist during the winter rainy season before drying up in the spring. Many of the vernal pools have been altered and disturbed by historical farming practices. A few of the pools appear to have been created by past scraping activities.

The deeper vernal pools generally support wetland vegetation dominated by creeping spikerush (*Eleocharis macrostachya*), slender popcorn flower (*Plagiobothrys stipitatus*), and coyote thistle (*Eryngium vaseyi*). Other common species include annual rabbit-foot grass (*Polypogon monspeliensis*), swamp timothy (*Crypsis schoenoides*), and wooly marbles *(Psilocarphus brevissimus*). The shallow vernal pools support a wetland plant community characterized by perennial rye, Mediterranean barley, curly dock (*Rumex crispus*), postrate knotweed (*Polygonum aviculare*), and purple hairgrass (*Deschampsia danthonioides*).

Wet Swales Wet swales (WS1-WS5) identified in the study area are generally characterized by broad, linear, sloping drainages that support developed wetland plant communities (Figure B). They were distinguished from channels by the presence of hydric soils and developed hydrophytic vegetation, and the absence of a scoured bed and bank. The wet swales sustain long-term saturation and, to a lesser extent, limited ponding conditions that persist during the winter rainy season before drying up in the spring. They have been augmented by past irrigation activities and urban run-off from adjacent roads and residential development.

The shallow portions of the wet swales support wetland vegetation including perennial rye, Mediterranean barely, postrate knotweed, common tarweed (*Hemizonia pungens*), and purple hairgrass. While the deeper portions of the swales support wetland vegetation characterized by creeping spikerush, Mediterranean barley, and curly dock.

Ponds The two ponds on the project site include a 0.09-acre seasonal pond (P1) located in the southeast corner of the study area, and a 0.47-acre irrigation pond (Non/Pond 1) located in the northwest corner of the study area (Figure B).

P1 is a seasonal pond associated with a vernal pool (V28) that is currently utilized as a tailwater pond for stock watering. It sustains inundation during the winter and early spring supported by rainfall and runoff. However, it also sustains ponding conditions during the summer irrigation season.

Non/Pond 1 was historically constructed in uplands for irrigation purposes. It does not have a surface connection with other jurisdictional waters or their tributaries, nor is it adjacent to other jurisdictional waters. The Corps determined that this pond is not jurisdictional due to its isolated nature

Mitigation The applicant has stated that permanent impacts to both jurisdictional and non-jurisdictional wetlands and other waters will be mitigated via the purchase of credits at a Corps and U.S. Fish and Wildlife Service-approved mitigation bank. The applicant has proposed to mitigate for 3.44 acre of direct impacts and 0.29 acre of indirect impacts to potential fairy shrimp habitat (vernal pools and seasonal wetlands) at the proposed ratios: preservation credits for direct/indirect effects to potential habitat at a 2:1 ratio (7.46 acres) and restoration credits for direct effects to potential habitat at a 1:1 ratio (3.44 acres).

Mitigation for permanent impacts to 0.56 acres of jurisdictional and non-jurisdictional pond habitat will be mitigated via the purchase of emergent marsh credits at a 1:1 ratio. Mitigation for permanent impacts to 0.68 acre of wetland swale will be mitigated via the purchase of seasonal wetland credits at a 1:1 ratio. All credits will be purchased prior to initiation of work in waters of the U.S.

No compensatory mitigation is proposed by the applicant for the temporary impacts to 4.89 acres of Gerber Creek. The proposed excavation work in the creek is considered by the applicant to be a temporary impact, since the seasonal wetland vegetation will re-establish in the channel after construction. It is proposed that the acreage of jurisdictional creek channel will increase after the proposed work is completed.

AREA DESCRIPTION: The project area has historically been in agriculture-residential use. Remaining agricultural uses in the area consist of pasture land and a specialty crops. Lands to the north and west of the project site are agricultural-residential, while lands to the south have been developed as single family residential subdivisions. The Wildhawk Golf Course is located east of the project site, at the southeast corner of Gerber and Vineyard Roads.

ADDITIONAL INFORMATION:

Alternatives Analysis: An alternatives analysis, including an analysis of other sites, alternative development layouts for this site, and a discussion of avoidance and minimization is being prepared by the applicant for approval under Section 404 (b)(1) of 40 CFR, Part 230.

Endangered or Threatened Species: The Corps has initiated Section 7 consultation, pursuant to the Endangered Species Act, with the U.S. Fish and Wildlife Service for potential impacts to federally-listed species. The following federally-listed species have the potential of occurring on-site: giant garter snake (*Thamnophis gigas*), vernal pool fairy shrimp (*Branchinecta lynchi*), vernal pool tadpole shrimp (*Lepidurus packardi*), and slender Orcutt grass (*Orcuttia tenuis*). Protocol level surveys are proposed by the applicant for the invertebrates and Orcutt grass. The project will directly impact 3.44 acres of potential habitat for the invertebrate species, consisting of 3.31 acres of vernal pools and 0.13 acre of seasonal wetlands on the project site. This

includes the non-jurisdictional vernal pools (Non/VP1, VP2) and seasonal wetland (Non/SW1) that will be filled as part of project construction.

Cultural Resources: The applicant states that limited cultural resources assessments have been prepared for portions of the project area as part of the Vineyard Springs Comprehensive Plan. Potential resources identified on or immediately adjacent to the Wildhawk North project site were limited to historic-era buildings. However, none of the buildings identified on or immediately adjacent to the project site were recommended for further evaluation. The applicant states that updated information on cultural resources will be provided to the Corps.

Other federal, state, and local permits: The applicant has stated that Sacramento County map approval, California Regional Water Control Board 401 Certification, and California Department of Fish and Game 1603 Agreement have been or will be applied for.

Related Documents: June 27, 2003, Department of the Army Permit Application for the Wildhawk North Project, Sacramento County, California

April 2003, Special Status Species Evaluation, Wildhawk North Property

March 7, 2003, Request for Verification of Revised Jurisdictional Delineation - Wildhawk North Property, Sacramento County, California

November 6, 2002, Request for Verification of Jurisdictional Delineation - Wildhawk North Property, Sacramento County, California

The District Engineer has made these determinations based on information provided by the applicant and on the Corps' preliminary investigation.

Consideration of Comments: Interested parties are invited to submit written comments on or before **October 30, 2003**. Personal information in comment letters is subject to release to the public through the Freedom of Information Act. Any person may request, in writing, within the comment period specified in this notice that a public hearing be held to consider this application. Requests for public hearings shall state, with particularity, the reasons for holding a public hearing.

The decision whether to issue a permit will be based on an evaluation of the probable impact including cumulative impacts of the proposed activity on the public interest. That decision will reflect the national concern for both protection and utilization of important resources. The benefit which reasonably may be expected to accrue from the proposal must be balanced against its reasonably foreseeable detriments. All factors which may be relevant to the proposal will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shoreline erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs, consideration of property ownership, and in general, the needs and welfare of the people.

The Corps of Engineers is soliciting comments from the public; Federal, state, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of

Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

This public notice may be obtained through our web-site at www.spk.usace.army.mil/cespk-co/regulatory/PNs. If additional information is required, please contact the applicant, Craig Nagler with Dunmore Homes, at (916) 771-7500, their consultant, Ginger Fodge, with Gibson & Skordal, LLC, at (916) 569-1830, or Jonathan Foster, at the letterhead address, or email Jonathan.L.Foster@usace.army.mil, or telephone 916-557-7283.

Mark W. Connelly
Lieutenant Colonel,
Corps of Engineers
Acting District Engineer

Attachments: 9 Figures